

Notice of Agency Rule-making Proposal

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Accountancy

CHAPTER NUMBER AND TITLE: Chapter 5, Certified Public Accountant License Requirements

PROPOSED RULE NUMBER (*leave blank; assigned by Secretary of State*):

CONTACT PERSON FOR THIS FILING: Catherine Carroll, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8605, email catherine.m.carroll@maine.gov

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different): Catherine Carroll

PUBLIC HEARING (if any): May 22, 2013, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: June 17, 2013

BRIEF *SUMMARY: The proposed amendments revise the educational and experience requirements for licensure as a CPA. The experience requirement is revised to specifically identify 12 categories of accounting topics from which the minimum 15 hours of accounting courses must be drawn. The experience requirement is revised to permit accounting experience in industry and government to be recognized for licensing purposes in addition to accounting experience in public practice.

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): None

STATUTORY AUTHORITY FOR THIS RULE: 32 MRSA §12214(4), §12228(3)(B), §12228(4), §12228(10), §12231(2)(D)(2), §12233

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different):

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: jeffrey.m.frankel@maine.gov

* Check one of the following two boxes.

☒ The above summary is for use in both the newspaper and website notices.

☐ The above summary is for the newspaper notice only. A more detailed summary / basis statement is attached.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____
(authorized signature)

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
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Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Accountancy

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Catherine M. Carroll, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, (207) 624-8605

CHAPTER NUMBER AND RULE TITLE: Chapter 5, Certified Public Accountant License Requirements

STATUTORY AUTHORITY: 32 MRSA §12214(4), §12228(3)(B), §12228(4), §12228(10), §12231(2)(D)(2), §12233

DATE AND PLACE OF PUBLIC HEARING: May 22, 2013, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: June 17, 2013

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: To clarify the educational requirements for licensure as a certified public accountant, and to explicitly recognize experience in industry or government as a basis for licensure as a certified public accountant.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Board experience under current rules, Uniform Accountancy Act Model Rules, consultation with National Association of State Boards of Accountancy, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: The proposed rule amendments (1) list the course topic areas from which the minimum 15 hours of qualifying coursework must be completed, (2) permit the 2 years experience required for licensure to be obtained through employment in industry or government as well as public practice, and (3) eliminate the breakdown of specific tasks and hours from the experience requirement.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Economic Impact Statement

(5 MRSA §8052(5-A))

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Accountancy

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CHAPTER NUMBER AND RULE TITLE: Chapter 5, Certified Public Accountant License Requirements

TYPES AND NUMBER OF SMALL BUSINESS SUBJECT TO THE RULE: The Board of Accountancy (“the board”) licenses 2045 certified public accountants, 10 public accountants and 428 accountancy firms. Title 5 MRSA §8052(5-A) defines “small business” as businesses that have 20 or fewer employees. The board does not collect any information that permits it to reliably estimate how many of its licensees are small business as defined in 5 MRSA §8052(5-A). However, the proposed rule affects only future applicants for licensure. The proposed rule does not affect current licensees.

PROJECTED REPORTING, RECORD-KEEPING AND OTHER ADMINISTRATIVE COSTS REQUIRED FOR COMPLIANCE WITH THE PROPOSED RULE, INCLUDING THE TYPE OF PROFESSIONAL SKILLS NECESSARY FOR PREPARATION OF THE REPORT OR RECORD: The proposed rule imposes no reporting, record-keeping or other administrative costs different than those already in effect.

PROBABLE IMPACT ON AFFECTED SMALL BUSINESS: None

LESS INTRUSIVE OR LESS COSTLY, REASONABLE ALTERNATIVE METHODS OF ACHIEVING THE PURPOSES OF THE PROPOSED RULE: The board has considerable discretion in adopting rules as to the education and experience required for licensure as a certified public accountant. The proposed rule expands the employment settings in which experience may be earned and eliminates categorical requirements for specific types of experience.

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**280 BOARD OF ACCOUNTANCY****Chapter 5: CERTIFIED PUBLIC ACCOUNTANT LICENSE REQUIREMENTS**

SUMMARY: This chapter sets forth: (a) the application process and experience requirements for obtaining a certified public accountant license, and (b) the continuing professional education and renewal requirements for maintaining licensure.

1. APPLICATION FOR LICENSURE

Applications for licensure as a certified public accountant under 32 MRSA §12228 must be submitted on a form provided by the Board and must be accompanied by the license fee set forth in Chapter 10, Section 5(1) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees.”

2. EXAMINATION

The applicant must have passed the examination as provided in Chapter 3, Sections 6 and 7 of the Board’s rules.

3. EDUCATION

The applicant must meet the educational requirements set forth in 32 MRSA §12228(3). The 150 semester hours required by 32 MRSA §12228(3) must include a minimum of 15 hours in ~~accounting, auditing, and ethics combined, of which at least three hours were earned in auditing and at least three hours were earned in accounting~~ one or more of the topic areas described in subsections A-L below. Of the minimum 15 hours, at least 3 hours must be earned in auditing and attestation services (subsection C).

A. Financial accounting and reporting for business organizations

B. Financial accounting and reporting for government and not-for-profit entities

C. Auditing and attestation services

D. Managerial or cost accounting

E. Taxation

F. Fraud examination

G. Internal controls and risk assessment

H. Financial statement analysis

I. Accounting research and analysis

J. Tax research and analysis

K. Accounting information systems

L. Ethics relevant to the practice of public accounting

4. EXPERIENCE

An applicant applying for licensure as a certified public accountant under 32 MRSA §12228 must comply with the experience requirement of 32 MRSA §12228(10) and this Section.

- A. Experience ~~in the practice of public accountancy~~ must be earned under the supervision of an individual licensed to practice public accountancy by this or another state ~~and must be such as to acquaint the individual with auditing and attesting to the accuracy and fairness of financial statements, with an independent state of mind.~~ Experience may be obtained through employment in industry, government or public practice. In evaluating the acceptability of experience for licensure, the board may consider:

1. The complexity and diversity of the work performed by the applicant; and

2. The skill and knowledge of the applicant as evidenced by the work performed.

[Note: Title 32 MRSA §12228(10) requires experience in “the use of accounting or auditing skills, including the issuance of reports on financial statements, and at least one of the following: the provision of management advisory, financial advisory or consulting services; the preparation of tax returns; the furnishing of advice on tax matters; or equivalent activities defined by the board by rule.”]

- B. ~~This experience must include the following or an equivalent as determined by the Board:~~~~[deleted]~~

~~1. Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records in accordance with Generally Accepted Accounting Principles;~~

~~2. Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records;~~

~~3. Experience in the preparation of written explanations and comments on the findings of the examination and on the content of the accounting records;~~

~~4. Personal involvement in the preparation of audited financial statements in accordance with Generally Accepted Accounting Principles together with explanations and notes thereon and be such as to acquaint the individual with the preparation of financial statements in accordance with generally accepted~~

~~professional standards such as Statements on Standards for Accounting and Review Services;~~

- ~~5. Involvement in the planning process of an audit;~~
 - ~~6. A minimum of 400 hours of experience in audit, review, or compilation procedures; and~~
 - ~~7. A minimum of 200 hours of combined experience in one or more of the following:~~
 - ~~a. The provision of management advisory, financial advisory or consulting services;~~
 - ~~b. The preparation of tax returns; or~~
 - ~~c. The furnishing of advice on tax matters.~~
- C. ~~The Board may give credit for non-public accounting experience that it determines to be substantially equivalent to the experience required by this Section. [deleted]~~
- D. For purposes of computing experience for part-time employees, 2,080 hours of work experience constitutes one (1) year of experience and 173 hours of part-time employment constitutes one (1) month of experience.
- E. The required experience shall be verified by the completion of a form provided by the Board. The Board may, at its discretion, request further documentation to verify such experience.

5. APPLICANTS HOLDING CREDENTIALS FROM ANOTHER COUNTRY

- A. The Board recognizes the existence of the International Qualifications Appraisal Board (IQAB), a joint body of NASBA and the AICPA, which is charged with:
- 1. Evaluating the professional credentialing process of certified public accountants, or their equivalents, of countries other than the United States; and
 - 2. Negotiating principles of reciprocity agreements with the appropriate professional and/or governmental bodies of other countries seeking recognition as having requirements substantially equivalent to U.S. requirements for the certificate of a certified public accountant.
- B. The Board shall give consideration to the terms of all principles of reciprocity agreements issued by IQAB.

6. LICENSE RENEWAL

- A. **Expiration.** All licenses issued under this chapter expire on September 30 of each year.

- B. **Renewal.** To renew a license, the licensee shall follow the on line renewal procedure prescribed by the board and shall remit the license fee set forth in Chapter 10, Section 5(1) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees.”
- C. **Late Renewal.** A license may be renewed on line up to 90 days after expiration upon payment of the late fee set forth in Chapter 11, Section 2(1) of the rules of the Office of Licensing and Registration, entitled “Late Renewals,” in addition to the renewal fee.

7. LICENSE REINSTATEMENT

A former licensee who applies for reinstatement pursuant to 32 MRSA §12234(2) shall demonstrate completion of 80 hours of continuing professional education in the 24 months preceding application that meets the requirements of Section 8 of this chapter. The 80 hours of continuing professional education must include four hours of ethics.

8. CONTINUING PROFESSIONAL EDUCATION

- A. Except as set forth in the next paragraph, all licensees shall obtain 40 hours of CPE annually, due at time of renewal. The annual accumulation period for CPE is the twelve month licensure period beginning on October 1 and ending on September 30 of the following calendar year. If a licensee obtains more than 40 hours of CPE in any licensure period, no more than 20 hours of such excess may be carried forward and utilized in the immediately succeeding licensure period. (For example, an individual who obtains 70 hours of CPE in one year and 30 hours in the succeeding year has 30 excess hours in the first year. The licensee may carry forward 20 hours from the first year to the second in order to make up a deficiency and satisfy the CPE requirement for the second year. However, the licensee may not carry any of the excess from the first year to satisfy the CPE requirement in any subsequent year.)

A person whose initial license is issued between August 1 and March 31 shall complete 20 hours of CPE during the licensee’s initial license term ending on September 30. A person whose initial license is issued between April 1 and July 31 need not complete any CPE during the licensee’s initial license term ending on September 30.

- B. All licensees shall obtain at least 4 hours of CPE in professional ethics every three years, beginning with the date of first renewal. Acceptable CPE in ethics may include a program of study of the accountancy laws and rules of the State of Maine, including the Rules of Professional Conduct set forth in Chapter 8 of the board’s rules, or equivalent standards of the Securities Exchange Commission, the AICPA, or similar regulatory agency or professional organization.
- C. The Board may verify information submitted by an applicant by whatever means it deems appropriate.
- D. Notwithstanding Chapter 13, Section 4 of the rules of the Office of Licensing and Registration, entitled “Uniform Rule for the Substantiation of Continuing Education Requirements,” licensees shall retain documentation of compliance with the CPE

requirement, including professional ethics, for the three annual licensure periods that immediately precede the current licensure period on a rolling basis.

9. CPE PROGRAM REQUIREMENTS

A. PROGRAMS WHICH QUALIFY

A specific program will qualify as acceptable CPE if it is a formal program of learning which contributes directly to the professional competence of a licensee in public practice. It is left to the individual licensee to determine the course of study to be pursued.

1. **ACCEPTABLE PROGRAMS.** The following are deemed to qualify as acceptable CPE programs:
 - a. Professional development programs of state and national professional accounting societies or institutes;
 - b. Accredited university or college credit or non-credit courses;
 - c. Formal correspondence or other individual study programs. Such programs must require registration and provide evidence of satisfactory completion.
 - d. Formal organized in-firm education programs;
 - e. Meetings of the National Association of State Boards of Accountancy (NASBA); and
 - f. Other formal, organized educational programs.

B. PROGRAMS WHICH DO NOT QUALIFY

1. Any program or course specifically designed to prepare for the taking of the CPA examination.
2. Committee service of professional organizations.

C. STANDARDS FOR CPE PROGRAMS

1. **STANDARDS FOR CPE PROGRAM DEVELOPMENT**
 - a. The program must contribute to the professional competence of participants.
 - b. The program must be developed by persons qualified in the subject matter and in instructional design.
 - c. Program content must be current.

- d. The program must be reviewed by a qualified person other than the preparer to ensure compliance with the above standards.

2. **STANDARDS FOR CPE PROGRAM PRESENTATION**

- a. Instructors, facilitators and speakers must be qualified both with respect to program content and teaching methods used. They are considered qualified if through formal training and experience they have obtained sufficient knowledge to instruct the course competently.
- b. The number of participants and physical facilities must be consistent with the teaching method specified.
- c. The program must include some means for evaluating quality.

3. **STANDARDS FOR CPE REPORTING**

- a. Participants in group or self-study programs must document their participation including: (i) sponsor; (ii) title and/or description of content; (iii) date(s); (iv) location; and (v) number of CPE contact hours.
- b. In order to support the reports that may be required of participants, the sponsor of group or self-study programs must retain following the completion of any program: (i) record of participation; (ii) outline of the course (or equivalent); (iii) date(s); (iv) location; (v) instructor(s); and (vi) number of CPE contact hours. An outline is a schedule of activity listing major topics of discussion that is prepared in advance.
- c. Participants at NASBA meetings must document the meeting agenda(s).

4. **SUBJECT MATTER**

- a. The following subject matters are acceptable without limitation:
 - i. Accounting, Auditing and Ethics
 - ii. Specialized Accounting Areas of Industry
 - iii. Administrative Practices
 - iv. Taxation
 - v. Management Services
- b. Credit for the following subject matters may not exceed 50% of the hours required by this chapter:
 - i. Communication Arts

- ii. Mathematics, Statistics, Probability and Quantitative Applications in Business
- iii. Economics
- iv. Business, Securities and Administrative Law
- v. Human Resources Policies
- vi. Computer Software Applications

Areas other than those listed above may be acceptable if the licensee can demonstrate to the Board that they contribute to the licensee's professional competence.

5. **MEASUREMENT.** Professional education courses shall be credited for continuing education purposes in one-half CPE credit increments (equal to 25 minutes) after the first credit has been earned in a given learning activity. A course participant must attend substantially an entire course to be granted credit for the entire course and, if a record of registration and attendance is not maintained by the sponsoring organization, the course participant must be able to prove registration and attendance.
6. **INSTRUCTORS.** Credit as an instructor, discussion leader, or speaker will be allowed for any meeting, program, or engagement provided that the session is one that would meet the CPE requirements of those attending. An instructor, discussion leader, or a speaker will be credited for the first presentation only, and on a basis of 3 hours for each hour of class time. However, those credits may not exceed 50% of the hours required by these rules. To the extent a course or program has been substantially revised, the revised course shall be considered a first presentation.
7. **PUBLICATIONS.** Credit may be allowed for published articles and books provided they contribute to the professional competence of the licensee. Credit for preparation of such publications may be given on a self-declaration basis of up to 50% of the renewal requirement. In exceptional circumstances a licensee may request additional credit by submitting the article(s) or book(s) to the Board with an explanation of the circumstances which the licensee feels justify a greater credit.
8. **ASSISTANCE TO THE BOARD.** The Board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

D. **CERTIFICATION AND AUDIT**

All licensees must certify at time of renewal to completion of the continuing professional education required by this chapter. The licensee's certification is subject to audit as set forth in Chapter 13 of the rules of the Office of Licensing and Registration, entitled "Uniform Rule for the Substantiation of Continuing Education Requirements."

STATUTORY AUTHORITY: 32 MRSA §12214(4), §12228(3)(B), §12228(4), §12228(10),
§12231(2)(D)(2), §12233

EFFECTIVE DATE: